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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,089	04/14/2004	Kenneth M. Nicolay	106.04	7020
37761	7590	02/13/2006		
ERICKSON & KLEYPAS, L.L.C. 800 W. 47TH STREET, SUITE 401 KANSAS CITY, MO 64112				
			EXAMINER JACKSON, ANDRE L	
			ART UNIT 3677	PAPER NUMBER

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/824,089	NICOLAY ET AL.	
	Examiner	Art Unit	
	Andre' L. Jackson	3677	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 15, 22 and 23 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 16 and 20 is/are rejected.
- 7) ☒ Claim(s) 2, 4-7, 17-19 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

*DETAILED ACTION*

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 25, 2005 has been entered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,887,920 to Perciful. Perciful discloses a tool handle comprising;

first and second legs (14, 16), each of the legs having a first end and a second end; a first cross-member (12) extending between the first and second legs proximate the first ends thereof; a second cross-member (22) extending between the first and second legs proximate the second ends thereof; an inner grip handle (42) connected to and extending between the first and second legs between the first and second ends; an outer grip handle (34) mounted on the first cross-member between the first and second legs and extending approximately perpendicular to the first cross-member; and a tool head connector (28) mounted on the second cross-member in planar

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alignment with the outer grip handle in a plane extending perpendicular to the first and second cross-members; the tool head connector adapted for connecting a tool head thereto.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,048,883 to Waluk. Waluk discloses a tool comprising;

a telescoping leg assembly (20, 21, 24) having first and second ends; a tool head connecting member (22) located at a second end of the telescoping leg assembly and adapted for selectively and removably connecting a selected tool head to the tool; an inner grip handle (30) having a grip (33) extending generally perpendicular to the telescoping leg assembly, the inner grip handle connected to the telescoping leg assembly by a sliding connector (31).

***Allowable Subject Matter***

Claims 8, 15, 22 and 23 are allowed over the prior art.

Claims 2, 4-7, 17-19 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose or suggest the combination and arrangement of the structural limitations as set forth in applicant's claims. In particular, the prior art fails to disclose or suggest a tool handle including first and second legs, each leg having first and second ends extending in parallel relation, wherein each leg are formed of telescoping members.

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A first cross-member extending between the first and second legs proximate the first ends and a second cross-member extending between the first and second legs proximate the second ends. A tool head connector connected to the second cross-member between the first and second legs and projecting outward, wherein a connecting member having a threaded outer end, the connecting member is rotatably connected to the second cross-member and securable in a selected rotational orientation relative to the second cross-member. An inner grip handle pivotally mounted on sliding connectors, which are slidingly connected to the first and second legs such that the inner grip handle is slidable toward and away from the second cross-member and inner grip handle is pivotable between a retracted position and an operating position, where the operating position, the inner grip handle extends outward from a plane defined by the first and second legs. And an outer grip handle rotatably connected on the first cross-member between the first and second legs about a pivot axis extending parallel the cross members.

None of the prior art references disclose or suggest these structural limitations or the arrangement of these limitations as recited above.

### ***Response to Applicant's Arguments***

Applicant's arguments with respect to claims 1-8 and 15-23 have been considered but are moot in view of a new ground of rejection. Accordingly, #5,887,920 to Perciful and #5,048,883 to Waluk have been cited and applied to meet the structural limitations of applicant's claims. Subsequently, claims 1, 3, 16 and 20 are found to be unpatentable over Perciful and Waluk. Claims 8, 15, 22 and 23 are found to be allowable over the prior art of record and claims 2, 4-7, 17-19 and 21 are objected to.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson  
Patent Examiner  
AU 3677

ALJ

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**